Dandaniti in the Indian Tradition

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Dandaniti as Complex Adaptive Policy

Generally understood as retribution for offences, dandaniti also means **tridanda** or self-control of thought, speech and action. Dandaniti implemented dharma in its widest sense—individual, social, spiritual and material.

The *dharmasastra* and *nibandha* dealt with diverse aspects of social and political order over different places and times. These texts adapted dandaniti by **applying plurality-conscious universal principles of dandaniti.**

Vedic Roots of Dandaniti

The Vedas and Epics combined philosophy and pragmatism to establish roots of social order based on righteous conduct. Between the manifest and unmanifest they saw connections and oneness that could provide insights for social cohesion.

Amidst ordered reality beyond space and time, sages discovered the relation between particular and the universal. In their quest for social harmony they evolved Trivarga principles of dharma, artha, kama, to balance unity and diversity in the society.

Determination of Offences

The Vedas established the principle of social order aimed at preserving social harmony and individual freedom. It gave the right to the state and society to impose appropriate and lawful punishment on the transgressors.

The Vedas specified: (a) the standard of Right which was considered inviolable; (b) violations which were termed as crime; (c) the accountability for crime which determined the guilt of the transgressor; (d) degrees of offence which determined the forms of punishment.

Institutionalisation of Dandaniti

While antecedents of dandaniti can be traced to the Vedas and the Epics, its institutionalisation can be seen clearly in the Arthasastra and the Dharmasastra. Creation of judicial institutions indicate a shift in emphasis from self-discipline to enforced discipline.

Four aspects of dandaniti reflect its source and procedure: adjudication on the basis of dharma; judicial proceeding for ascertainment of right; the evidence of custom; and a verdict in accordance with confluence of dharma, reason and custom.

Administration of Dandaniti

The broad-based variety of judicial forums were linked to specific communities so that dandaniti was administered in the suitable socio-cultural atmosphere of the people. People's court system guided by officials had dynamism that resolved the problem of judicial delay.

Collegiate system and assistance of experts in the field of law, technicality and accounts reflected inbuilt safeguards to avoid errors. Humane but stern treatment of witnesses and parties fairly mixed compassion with justice.

Levels of Punishment

The principle of proportionality, assisted by good counselling and appreciation of facts, was crucial in giving punishment, fixing of fines or considering extenuating circumstances and ***prayashchit***. By affirming strongly that in case of doubt punishment will not be imposed, the legal system exhibited great wisdom.

The society and state's duty to act with a sense of proportion in the matter of imposition of punishments prescribed in the code shows the link between law and justice.

Hierarchy of Decision Making

The family, the guild, the corporation, and officials approved by the king, decided most cases concerning their members, other than those relating to grave crimes. Any matter, not coming within the purview of the family guild, or corporation, was to be finally decided by the supervisors.

They were superior in power to the family etc. and the judge superseded the supervisors. Of the family, the guild, the corporation, the officials, the judge and the king, the next ones were successively higher in judicial authority than the preceding ones.

Contextual Law Enforcement

Punishment was to be given to those deserving punishment, only after duly ascertaining the motive and the time and place, and taking into consideration the nature of offence. A decision arrived at without reasoning and considering the circumstances of the case, was adharma.

It became necessary to a adopt a rational method for decision making, because social context was seen as a determinant that affected the interpretation of the codified law.

Integrity of Judges

A judge was required to be well versed in the eighteen titles of law and proficient in logic and interpretation. Knowledge of Vedas and Smritis, and capacity to extract the truth from the judicial proceedings by application of the dharma was essential.

The members of the court were not to connive with the king if he to acted unjustly. If they did, they, along with the king, fall head down from grace. Judges who agreed with the king when he proceeded in an unjust manner were considered party to the unjust decision.

Dandaniti for Freedom through Law

Dandaniti emphasized that while law restrains it also enables realisation of human potential. The state was conceived both as a political and pedagogic institution. It was an institution in and through which men's vices were curbed and virtues enhanced.

Dandaniti is an essential and effective policy for collective uplifting of both society and individual. Human beings cannot progress without social and political organization. Freedom requires law of the organised state and society based on the principles of righteousness.